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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/228,103	01/11/1999	HARSH GOPAL	TPP:628US	7307

7590 03/13/2003

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EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
1772	20

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/228,103	GOPAL, HARSH	
	Examiner	Art Unit	
	Sow-Fun Hon	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 December 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 16-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 16-20 is/are allowed.
- 6) Claim(s) 21-42 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Disposition of Claims

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Request for Reconsideration

Rejections Repeated

1. The 35 U.S.C. 102(b) and 103(a) rejections over Tee-Pak as the primary reference have been repeated for the same reasons previously of record in Paper # 17 (mailed 08/28/02).

Response to Arguments

2. Applicant's arguments filed 12/31/02 have been fully considered but they are not persuasive.
3. Applicant argues that the diglyceride in Tee-Pak and the diglyceride and triglyceride in Hammer et al. are not polyglyceryl esters. Applicant is respectfully reminded that the disclosure does not teach the structure of the molecule, and is referred to the synonyms below.

Howard et al. (Dictionary of Chemical Names and Synonyms) gives a synonym of glyceryl trioleate as being oleic acid triglyceride (I-302, 122-32-7) and a synonym of polyglyceryl oleate (ester) as being oleic acid polyglyceride (I-958, 9007-48-1). The "poly" is "tri" when the number of glycerol monomers is three, "tetra" when the number is four and "di" when the number is two.

3. Applicant argues that in Hammer the polyglycerides are used as various types of agents while Colliopoulos teaches them as emulsifying agents such that there is no motivation to combine the two references.

Applicant is respectfully reminded that Hammer et al. teaches a coating for the inner surface of a food casing which improves

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peelability, and coats from 5 to about 100 mg/ square meter ('914, column 1, lines 5-25). The coating is an aqueous emulsion which teaches the addition of additives of low viscosity oils such as natural oils, synthetic polyglyceryl esters (di- or tri-glycerides) and silicon oils, emulsifiers, and polyhydric alcohols such as propylene glycol (1,2-propane diol), each one in the amounts of 0.5 to 30 % by weight relative to the total weight of the aqueous solution (('914, column 3, lines 30-65). The term "comprising" in the claims allow for other components of the coating, but since the amount of alginic acid and/or chitosan is only present in an amount of up to 4.0 % of the aqueous coating concentration, and the amount of additive is present in an amount up to 30 %, the amount of water present is greater than 50 % in the aqueous coating composition of Hammer et al.

Colliopoulos et al. is the secondary reference which teaches that triglycerylolate is better for preparing stable emulsions of oil containing more than 10 % water, providing the advantage and thus the motivation to use the triglycerylolate of Colliopoulos et al. as the triglyceride in the invention of Hammer et al. in order to obtain an aqueous emulsion with improved stability.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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Sow-Fun Hon
03/07/03


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

3/10/03